

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BLAKE L. ANDERSON,

Petitioner,

v.

NETHANJAH
BREIGHTENBACH, *et al.*,

Respondents.

Case No. 3:24-cv-00430-ART-CLB

ORDER

On November 18, 2024, this Court granted petitioner Anderson's motion for appointment of counsel and appointed the Federal Public Defender (FPD) to represent him in this proceeding under 28 U.S.C. § 2254. ECF No. 7. Because counsel for both parties have appeared (ECF Nos. 10/11), the Court now issues the following scheduling order:

Amended Petition. If petitioner wishes to file an amended petition in this action, he must do so within 45 days of the date this order is entered. The amended petition must state whether each ground for relief has been exhausted in state court. For each claim that has been exhausted, the amended petition must state how, when, and where that occurred.

Response to Petition. Respondents will have 60 days from receipt of the amended petition (or from the expiry of the period for filing an amended petition if none is filed) to file and serve an answer or other response to the amended petition.

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1 **Reply.** Petitioner will have 45 days following service of an answer to file
2 and serve a reply. Respondents will then have 30 days from receipt of the reply
3 to file and serve a response to the reply.

4 **Briefing of Motion to Dismiss.** If respondents file a motion to dismiss,
5 petitioner will have 60 days following service of the motion to file and serve a
6 response to the motion. Respondents will then have 30 days following service of
7 the response to file and serve a reply.

8 **Discovery.** If petitioner wishes to move for leave to conduct discovery, he
9 must file and serve that motion concurrently with, but separately from, the
10 response to respondents' motion to dismiss or the reply to respondents' answer.
11 Any motion for leave to conduct discovery filed by petitioner before that time
12 may be considered premature, and it may be denied without prejudice on that
13 basis. Respondents' response to any motion for leave to conduct discovery must
14 be filed concurrently with, but separately from, their reply in support of their
15 motion to dismiss or their response to petitioner's reply. Petitioner will then
16 have 20 days to file and serve a reply in support of his discovery motion.

17 **Evidentiary Hearing.** If petitioner wishes to request an evidentiary
18 hearing, he must file and serve a motion for an evidentiary hearing concurrently
19 with, but separately from, the response to respondents' motion to dismiss or the
20 reply to respondents' answer. Any motion for an evidentiary hearing filed by
21 petitioner before that time may be considered premature, and it may be denied
22 without prejudice on that basis. The motion for an evidentiary hearing must
23 specifically address why an evidentiary hearing is required and must meet the
24 requirements of 28 U.S.C. § 2254(e). The motion must state whether an
25 evidentiary hearing was held in state court, and, if so, identify where the
26 transcript is located in the record. If petitioner files a motion for an evidentiary
27 hearing, respondents' response to that motion must be filed concurrently with,
28 but separately from, their reply in support of their motion to dismiss or their

1 response to petitioner's reply. Petitioner will then have 20 days to file and serve
2 a reply in support of the motion for an evidentiary hearing.

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4 Dated this 17th day of December, 2024.

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6 ANNE R. TRAUM
7 UNITED STATES DISTRICT JUDGE
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